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Hide And Seek – Tracking Down Hidden Assets In Divorce Cases

Article By
Brittany Blackburn Koch
McBrayer, McGinnis, Leslie and Kirkland, PLLC
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Divorce is never an easy time for anyone involved. The end of any relationship carries an excessive amount of emotional weight, but divorce brings with it all the stresses and conflicts that accompany a financial decoupling as well. Trust and communication are likely at an all-time low, and there's often a temptation to deprive the other of anything he or she stands to gain. Although both parties are required by law to disclose their full financial picture, lingering bitterness may prevent one's ex-to-be from being fully truthful in his or her disclosures. This may be more common than one might think, considering that a survey by the *National Endowment for Financial Education* determined that three in five Americans have hidden money from their spouses at some point. In addition to the headache of dealing with untruthful partners, chasing down hidden assets can seem like a shell game. Luckily, there are tools and tactics available to seek out hidden assets.

Kentucky is an "*equitable distribution*" state, meaning that marital assets are divided equitably according to the couple's financial circumstances - not necessarily 50-50. All property acquired by either spouse during the marriage is presumed to be marital property unless it was acquired through a narrow set of conditions prescribed by statute, including property acquired by gift to a specific spouse or the income derived therefrom, property acquired in exchange for property acquired before the marriage, property excluded by agreement, etc. These marital assets are the quarry for our purposes.

In Kentucky, divorcing partners must exchange both preliminary and final verified disclosure statements unless each party agrees to waive such exchange. This is where the hidden assets game of three-card monty begins. A good tool to start off with is the 1040 tax return. Starting with the last jointly-filed return, check to make sure all items on the 1040 match the required disclosures on the verified disclosure statement. For instance, Schedule B on the 1040 requires listing all sources of dividends or interest (over $1500) and any foreign accounts or transactions. Schedule D discloses capital gains or losses, which could be an indicator that the spouse owned and disposed of stocks, etc. Schedule E discloses income from rental properties, estate and trusts, and corporate/partnership income. If these don't line up fairly neatly with the financial disclosure, they become places to start digging for hidden funds. Go back as many years as practicable for a complete financial picture. Chances are good that although the spouse may want to cheat her or his near-ex out of money, she or he probably takes a softer line when it comes to Uncle Sam.

Most financial records can be unearthed during the discovery process. The important part is to ask for a wide variety of documents - account statements, tax documents, deeds, loans, title records, etc. Any document related to assets, liabilities, income or debts is fair game, and remember that there are both tangible and intangible assets as well. Once those documents are in hand, the first place to start digging is through checking and savings account records. Look for substantial purchases, transfers, withdrawals, deposits - anything that signals Spouse A moved large chunks of assets without the knowledge of spouse B. Check to see where the money came from or where it went - unfamiliar account numbers can signal a hidden asset. Subpoena any bank that might have an account with the opposing spouse. Also check for safety deposit boxes in the spouse's name; it may be old-fashioned, but there are probably locked boxes stuffed full of cash out there in banks still.

There are plenty of other items in the asset-hiding trick bag. One notorious trick of the dishonest is to create a fake debt to a friend or relative. Such debts should be scrutinized closely for propriety, as the "debt" principal is often handed back after the divorce is finalized. If a spouse owns a business, there may be overstated debts on the books or nonexistent employees, or even a delayed business deal that would benefit the marital assets if finalized before the dissolution of the marriage. If a spouse has a good relationship with his or her boss, the boss might be willing to defer a bonus or promotion until the settlement is final, and those may be marital assets. Custodial accounts in the name of a child are common places to stash some cash. Tax-savvy spouses might pay excess income tax and later file for a tax refund after the divorce. Even the internet is getting involved, as cheating spouses can create PayPal accounts that are funded and then used discreetly, safely away from the prying eyes of their partners.

Luckily, tracking down hidden assets has been aided to a great degree by the digital age. Suspicious spouses can take a look at the web history of their partner, searching for clues in visited sites and social networks (although hacking into a spouse's Facebook page or the like is potentially illegal). Also, many of the records needed to comb through transactions are available electronically, cutting down the time spent sorting through paperwork and musty old files. Everything done online or electronically leaves a trail somewhere, and electronic discovery is making it easier and easier to follow those trails.

Tracking down hidden assets in a divorce is a difficult, but not impossible, job. It takes diligence, attention to detail and a thorough review of the complete financial picture. The reward in the end is a more just and equitable settlement, but there's also an element of karma in that the deceitful spouse opens herself or himself up to perjury and contempt charges for providing false information on official forms.